

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE
at CHATTANOOGA

| | | |
|--------------------------|---|----------------------|
| UNITED STATES OF AMERICA |) | |
| |) | Case No. 1-08-cr-130 |
| v. |) | |
| |) | JUDGE COLLIER |
| PHILLIP L. PATRICK |) | MAGISTRATE JUDGE LEE |
| |) | |

ORDER

Magistrate Judge Susan K. Lee filed a report and recommendation recommending the Court: (1) grant Defendant's motion to withdraw his not guilty plea to Counts One and Six of the six-count Indictment; (2) accept Defendant's plea of guilty to the charge in Counts One and Six, that is of conspiracy to distribute 500 grams or more of a mixture and substance containing a detectable amount of cocaine in violation of 21 U.S.C. §§ 846 and 841(b)(1)(B) and felon in possession of a firearm in violation of 18 U.S.C. § 922(g); (3) adjudicate Defendant guilty of the charge in Counts One and Six, that is of conspiracy to distribute 500 grams or more of a mixture and substance containing a detectable amount of cocaine in violation of 21 U.S.C. §§ 846 and 841(b)(1)(B) and felon in possession of a firearm in violation of 18 U.S.C. § 922(g); (4) defer a decision on whether to accept the plea agreement until sentencing; and (5) find Defendant shall remain in custody until sentencing in this matter [Doc. 61]. Neither party filed a timely objection to the report and recommendation. After reviewing the record, the Court agrees with the magistrate judge's report and recommendation. Accordingly, the Court **ACCEPTS** and **ADOPTS** the magistrate judge's

report and recommendation [Doc. 61] pursuant to 28 U.S.C. § 636(b)(1) and **ORDERS** as follows:

- (1) Defendant's motion to withdraw his not guilty plea to Counts One and Six of the Indictment is **GRANTED**;
- (2) Defendant's plea of guilty to the charge in Counts One and Six, that is of conspiracy to distribute 500 grams or more of a mixture and substance containing a detectable amount of cocaine in violation of 21 U.S.C. §§ 846 and 841(b)(1)(B) and felon in possession of a firearm in violation of 18 U.S.C. § 922(g) is **ACCEPTED**;
- (3) Defendant is hereby **ADJUDGED** guilty of the charge in Counts One and Six, that is of conspiracy to distribute 500 grams or more of a mixture and substance containing a detectable amount of cocaine in violation of 21 U.S.C. §§ 846 and 841(b)(1)(B) and felon in possession of a firearm in violation of 18 U.S.C. § 922(g);
- (4) A decision on whether to accept the plea agreement is **DEFERRED** until sentencing; and
- (5) Defendant **SHALL REMAIN** in custody until sentencing in this matter which is scheduled to take place on **November 19, 2009 at 2:00 p.m.** before the Honorable Curtis L. Collier.

SO ORDERED.

ENTER:

/s/
CURTIS L. COLLIER
CHIEF UNITED STATES DISTRICT JUDGE